

**FLATHEAD COUNTY BOARD OF ADJUSTMENT  
MINUTES OF MEETING  
FEBRUARY 6, 2007**

**CALL TO ORDER** The regular meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Committee members present were Tony Sagami, Gina Klempel, Janet Loranger, Scott Hollinger and Mark Hash. George Smith, Annie Thompson, Kirsten Holland and Jeff Harris represented the Flathead County Planning & Zoning Office (FCPZ).

There were approximately 65 people in the audience.

**APPROVAL OF MINUTES** Hash made a motion, seconded by Loranger to approve the January 2, 2007 meeting minutes.

The motion was carried by quorum.

**DANCING FOX  
CONDITIONAL  
USE PERMIT  
(FCU 06-16)** A request by Dancing Fox, LLC for a Conditional Use Permit to construct an eight (8) unit multi-family dwelling on .625 acres. The property is located at 655 Commerce Street and is zoned B-3 (Community Business), within the Bigfork Zoning District. The units will be served by the Bigfork Water and Sewer District, accessed from Terrace Hill Road. The property can legally be described as Tract 8ID in Section 36, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

**STAFF REPORT** Anne Thompson, of the Flathead County Planning & Zoning Office, reviewed Staff Report FCU 06-16 for the Board.

**BOARD  
QUESTIONS** Loranger said Thompson answered all of her questions about vision.

Thompson said at the Bigfork Land Use Advisory Committee Meeting (*BLUAC*), the applicant stated they wanted to keep the emergency access open and put in a sidewalk.

Klempel asked if the emergency access was going to be locked.

Thompson said it would be locked; the fire department would require the gate to have a siren lock.

Hash asked if there was a lighting condition.

**BOARD  
QUESTIONS  
CONTINUED...**

Thompson said she didn't put a lighting condition in because it was already part of their application.

Klempel asked about having a condition for dust abatement during construction.

Thompson said that wouldn't be a problem.

**APPLICANT**

Jarrold Mohr, of Stokes and Associates, asked if the Board wanted the access on Commerce Street completely gone.

Hollinger asked if they wanted to keep it open.

Moore said yes, but they were ok with getting rid of it also.

Sagami asked if the siren release was a condition.

Thompson said no.

Klempel asked about the road easement and how much they would have to donate to the County if they have to bring the road up to County standards.

Moore said it would be a 60-foot right-of-way.

Klempel said they wouldn't able to donate much road and would have to take it from both sides.

**PUBLIC  
COMMENT**

None.

**STAFF  
REBUTTAL**

None.

**APPLICANT  
REBUTTAL**

None.

**BOARD  
DISCUSSION**

Hash asked about condition # 2.

Thompson said they would be repaving it to 24-feet.

Hash asked if it meant surface area as well as width.

Thompson said the road currently has a 30-foot right-of-way, but the County requires a 60-foot right-of-way. The reason she didn't address that in her report was because of her discussion with the Road Department, who said the road

**BOARD  
DISCUSSION  
CONTINUED...**

would probably not be upgraded because they would have to buy too many easements to make it happen however, they would still pave it to County standards.

Hash asked if the condition would contain the width of the road.

Thompson said just the width of the road not the width of the right-of-way.

Hollinger asked if Staff would modify the second condition to state the road will be repaved to a 24-foot width.

Harris said current County standards require a 24-foot road.

Hash asked if Staff felt the secondary access gate would be fine if the Board removed a condition.

Thompson said they could just remove condition #1.

Hash said he understood the concern for the safety.

Thompson said her thought was that removing the access wouldn't have any effect on health and safety. She said if it isn't going to be used for an emergency access then parents would probably park their cars there while they waited for their kids.

Hash said it might create a hazard.

Thompson said that was possible, but she felt it was not a necessary emergency access.

Hollinger said there is probably going to be some seasonality to the condos, and the higher usage is going to be in the summer when school is not in session.

Klempel asked if it was full-time housing

Sagami asked if the condos were affordable, moderate, or luxury.

Mohr said they were affordable to moderate.

Hash asked if they would have a problem keeping it locked if the Board approved the access.

Mohr said their biggest concern was the accessibility for

**BOARD  
DISCUSSION  
CONTINUED...**

moving vans.

Hash asked if the access gate would be kept wide open or locked.

Thompson asked who would have a key.

Applicant said whoever was managing the complex.

Hollinger said any tenant could have a key and the fire department would have a key.

Moore said the fire department didn't want a key; they just wanted to cut the lock. He said access would definitely be controlled.

**MOTION**

Hash made a motion seconded by Klempel to adopt Staff Report FCU 06-16 and grant a conditional use permit with the recommended and added conditions.

**BOARD  
DISCUSSION**

None.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**BEASLEY  
CONDITIONAL  
USE PERMIT  
(FCU 06-18)**

A request by Robert J. Beasley, for a Conditional Use Permit to operate an industrial gravel extraction and processing plant (mining, crushing, washing, sorting, stockpiling, processing and transportation of rock/gravel and sand) on 271.11 acres. The applicant proposes to extract gravel from approximately 200 acres of the subject property. Initially, materials would be extracted from approximately 40 acres, which would include the 15-acre area that was the subject of the prior Conditional Use Permit issued in 1997. The property is located at 3248 Farm to Market Road and can legally be described as Tracts 1, 3 and 8 in Section 17, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

**STAFF REPORT**

George Smith of the Flathead County Planning & Zoning Office reviewed Staff Report FCU 06-18 for the Board.

**BOARD  
QUESTIONS**

Sagami asked if there were any comments from the notch owner.

Smith said yes.

Sagami asked why they don't go to the DNRC first so they don't have to go through the "food fight" if they get denied.

Smith said procedurally they go the DEQ; Kurt Hafferman would be able to better explain the relationship between the DRNC and the DEQ.

**AGENCY  
COMMENTS**

Kurt Hafferman, of Montana DNRC, discussed water rights and gravel pits and how they affect each other. The main purpose of water rights for gravel pits is irrigation and gravel washing. No one can change the purpose of water rights; purpose, place of use, and point of inversion are the three things that can't be changed. Hafferman discussed the time length required for obtaining water rights and what is required. He said there was no application from Beasley given to the DRNC to update the water rights. He discussed, at length, the amount of usage, flow rate, and volume and how that relates to the kind of water rights that need to be obtained. He said if people are opposed to a new water right, it can take one to three years to get a hearing date set and a decision made.

Hollinger asked if most gravel pits were above or below the 35 gallon per minute mark.

Hafferman said most of the gravel pits have been over the 35 gallon per minute mark if the water is used for gravel washing, but if it is just road construction and dust abatement then they keep it under 35 gallons per minute. He discussed reclamation and what water rights are required for that. He said you can't force people to obtain water rights but they suggest people get permits up front.

Hollinger asked if they include the void, created from removing gravel, into their calculations.

Hafferman said if you look at the amount of void space being removed, it's a tiny volume compared to the rest of it so he would say no.

Hollinger asked if he knew the depth of the two wells next to the pit.

Hafferman said he didn't do well research, so he didn't know. He said there are two distinct aquifers out there. He discussed the location and issues with the West Valley

aquifer.

Hash asked Hafferman his thoughts on this specific project.

Hafferman said they should definitely get a permit for water rights up front for the reclamation plan. He thinks they should be permitted for the dust abatement and road constructions, but if they decide not to get a permit there is nothing the DRNC can do.

## **APPLICANT**

Tom Esch represented Joe Beasley. He said Joe is very grateful for what the Board does for the community. Esch said he wanted to talk about a couple points tonight concerning gravel pits. He said Staff are the experts on these issues, not him, but there are no factual or scientific basis for the denial of one gravel pit and the approval of another. He said the location for the gravel pits is residential so they can either permit or deny them. Esch passed out photographs taken Friday and discussed the photographs saying the area was one of the more rural areas of the valley. He said gravel pits are “apples and apples”, not “oranges and apples”. He discussed, at length, that on any given day a certain amount of gravel is needed somewhere and the amount of traffic from that demand has to travel on some road. He said traffic is going to be created somewhere so why not from the Beasley pit; the effect of traffic on the valley is a finite amount, and it is not going to add to overall affect on roads. Esch said the Board is giving franchise to the gravel pits permitted, and that’s not fair. He knows the Board plays a respective roll in the valley, but he is asking them not be the Board of denial. Esch said gravel is resource necessary for the growth and commerce of the valley and it has a beginning middle and end and time of reclamation. He said gravel extraction should be competitive, so when they approve one and deny another is makes it less competitive and gives one a franchise over the other. Esch passed out proposed finding-of-facts and conditions to counteract the Staff Report. Esch said Joe is recommending 27 different conditions to be placed on his pit to protect neighbors and mitigate impacts.

Joe Beasley, applicant, said most of the Board is aware of the history they’ve had with the gravel pits and there’s been a lot of changes in the past year and a half. He said the vision for property is to eventually create an equestrian community with cluster homes up in the trees and open fields below. Beasley said he wanted to create that as part of the comprehensive reclamation plan. He asked the Board to

provide him with some reasonable conditions for him to be able to do this and said he wants to be a good neighbor. He said people of Montana are great. He discussed his relationship with Doug Siderius, and said Siderius would be running the gravel pit. Beasley asked for approval and for an “open mind” from the Board.

Marc Spratt, discussed at length, the water quality issues concerning gravel pits (*See Handout From RLK Hydro Inc.*)

Klempel asked about page 3 and who referenced it.

Spratt said it came from DEQ.

Klempel discussed monitored wells.

Spratt said it’s not an unusual thing.

Doug Siderius, friend of applicant, said he would be the manager of the gravel pit if approved. He discussed his background and his experience in construction, farming, ranching, reclamation projects, and building. He said he thinks this project would be a good asset to the valley, and wanted the Board to know he is very good friends with the Tutvedts. He said if it is approved he will do his best to manage the property with integrity.

**PUBLIC  
COMMENT**

Roger Sullivan, representing Flathead Citizens for Quality Growth, said he talked to Staff and told them he would be representing a large group of people and would like more than three minutes of time to speak. The report he gave was prepared by Kathleen McMahon (*See Report On Issues Regarding Application For Conditional Use FCU 06-18 Beasley*).

Russel Swindell owns the 300 acres that borders the Beasley gravel pit. He said the property is wooded, inhabitable, and some of the prettiest property in West Valley. He discussed how he has been working with the Planning Board and is getting ready to submit a preliminary plat for his property. He said it is borderline ridiculous for someone to apply for a 200-acre gravel pit and doesn’t want to be the buffer for the pit. He said the 200-acre application will not become an equestrian place; it would just destroy the area. If Beasley does the gravel pit he is worried what he would do with his 300 acres. He said owning 270 acres doesn’t give you the right to destroy your neighbor’s property.

Kip Willis, Lost Creek Lane, said he is a newcomer and almost

bought the Beasley property. He said no one is going to back-up Beasley for this gravel pit and the West Valley Plan states industrial uses should not to be encouraged. Willis said 2,500 neighbors who live in West Valley are suing the County in Supreme Court for violating the West Valley Neighborhood Plan. He said the director of the DEQ is very angry about the amount of nitrates in the water.

Jim Batey, lives about a mile from the Tutvedt pit, said he is completely opposed to the gravel pit. He said even though he lives a mile away from the gravel pit, it sounds like a road-grader is going by his backyard. He said because of gravel operations and the dust he has to shut his windows. He has some solace in knowing the Tutvedt's live there and they are going to reclaim the land because their grandchildren will live there, but Beasley isn't local and is going to rape the land and move to another state because he has no ties here.

Clara LaChappelle lives 3/10 of a mile from the proposed Beasley pit. She passed out photos taken from her yard and handed out a packet about nitrate levels. She was forced to put in a new well because of nitrate levels; in 2006 she hooked up her old well to see what the nitrate levels were. She discussed the need to stop all gravel pits in West Valley if they want to stop the water problems. She said high nitrates are a result of mint fields. She said they don't have the necessary infrastructure in regard to the roads for the amount of traffic the gravel pits produce. She said no one controls the gravel pits to keep them honest and wants to know where her property rights are. She wants the BOA to wake up and see the impact they have in West Valley. She said the nitrate levels in the water are high enough to cause "blue baby syndrome" in infants.

Angie Clark respectfully asked the BOA to deny permit because sufficient traffic and water studies have not been done. She has no question about Mr. Siderius mining the pit; she questions the person who owns it. She said the beeping from machinery backing up is driving her insane; it's like Chinese water torture. She said the gravel pits have ruined her quality of life at home. She is not able to leave windows open during the summer and is concerned about her livelihood and family. She wants smart planning in the valley.

Mark Schwagger said the authors of the West Valley Neighborhood Plan had vision. He discussed gas station, gravel pits, and the regulations. He handed out a packet to



the Board and read various parts of the packet. He said if he wanted a convenient store he would be required to get a traffic mitigation report so the Board should not pass the gravel pit without a report being done. He asked the Board to deny the application.

Steve Vandehey, lives a mile from the Tutvedt gravel pit, said he hears “beep-beep-beep” all the time. If he can hear the crushers a mile away, he can’t imagine what it would be like to live right next to the gravel pit. He said when a gravel pit was brought before the Board a couple of years ago, he made the comment that if the Board allows one in West Valley it would be like cancer. He said because one was permitted, several have been added. He discussed how the Board needs to stop the gravel pits now, before it is too late for West Valley. He said there is no guarantee they will only run 50 trucks per day because they don’t know how much business they’re going to get. He said the people who are operating them now are not going to be operating them in 20 years. He said he’s very emotional and passionate about gravel pits.

Tom Clark, lives 3/8 mile from Tutvedt pit, said the West Valley plan states opportunities for gravel extractions should be allowed. He said when they wrote the Neighborhood Plan they were thinking of farmers being able to extract gravel, not allowing huge gravel pits. He said “subsidize” is the key word in the plan. Beasley bought land solely for purpose of creating a gravel pit. Clark thinks that if you have a gravel pit, you should live on that property. Clark said Beasley lives in Iron Horse so he wouldn’t have to deal with the problems the gravel pit causes.

Tammy Gram, said the well she is using right now is 400 feet from the proposed Beasley pit and it is currently the highest nitrate contaminated well in West Valley. The well started out with 29 nitrates and is now 59 nitrates, which shows the source of the problem is still there. She said the aquifer is stressed to the max, and won’t be able to recover in a hundred years, from what is going on right now, because the contamination will go deeper. She said there are a lot of politics involved with DEQ right now and no one wants to point a finger at what the true problem is. She discussed how the mint fields have been turned into residential property and how that is affecting the wells. She is still using the water in her well out of defiance; if she drills another well people will wonder what she is complaining about.

Terry Long, the man who lives on notch, met with Beasley last week and said he votes for "Plan B".

Judy Owsowitz said she saw a lot of bald eagles because of dead deer in ditches from gravel trucks hitting them. She said the road is very elevated and you can't see the deer until its too late however, the deer are not her concern tonight. The people who swerve to miss the deer and the possibility of hitting a gravel truck is her concern.

Irene Vandehey, said she hears the beeping from the trucks in her basement and it's very annoying. She said the Tutvedts do not work from 7am-7pm; they work hours after 7pm and when the fog is out and no one can see them. She discussed how you can condition gravel pits, but they can't be enforced. She asked if the Board has ever lost someone close to them as a result of greed and said if they pass this gravel pit that's what would happen.

**STAFF  
REBUTTAL**

None.

**APPLICANT  
REBUTTAL**

Tom Esch said there are reasons why you condition a permit, and essentially the arguments come down to a technical argument. He discussed how the Board had power to permit or deny application and asked that they permit it with appropriate conditions. The concerns that were raised by the neighbors are addressed in their 27 conditions. He said nobody has addressed the effect on roads because there is a finite amount of gravel that is needed every day. He said that Farm to Market Road is a state highway. He discussed the importance of air quality and said that's why they have a condition for dust abatement. He realizes there are tremendous emotions and concerns, and it is awful that people have high nitrate levels in their water, but it's not caused by gravel pits. He said this project is no different from the gravel put going in across the road; the effects would be the same. He said the characterization of Joe Beasley is a concern, but the bigger question should be who will come after Joe and take care of the land. He discussed justice and said the rules should be applied equally to each person. He told the Board he knew they had a hard decision to make, but asked them not to deny the permit.

**BOARD  
DISCUSSION**

Sagami asked what the difference is between the Tutvedt pit and the Beasley pit.

Holland said it isn't appropriate to compare this gravel pit to the old Tutvedt pit. She said part of the reason was the surrounding land uses, locations, the location the trucks are most likely to travel, time of application review, and they had no indication of who the operator would be. She said it is central location to West Valley, as a whole, and is recognized as major residential.

Harris said one pit would be working in ground water, one would not.

Smith said it was a very big issue and they said they would have to bring in special trucks to work in the water.

Sagami asked if that was because they wanted to dig deeper.

Smith said to extract any meaningful amount of gravel they have to dig deeper. He said the two major issues are location and ground water.

Holland said the other site has a significant amount of land buffered by the applicant's old holding so both sides of the Tutvedt pit would be buffered.

Harris said one of the other differences is that they are reviewing applications differently than they did 3 years ago and today they do a more complete review.

Sagami asked if he meant more restrictive.

Harris said no, Staff doesn't come to the Board will denials for all gravel pits. They are doing as thorough of a job as they can when looking at the applications.

Hollinger said there is other equipment that could be used for extraction of gravel from the water.

Hash told Esch he knows the Board has a responsibility to look at issues and they are there to protect the health and the safety of the public. Hash asked if he was telling the Board if he thought differently about the highway being safe, and the increased usage wouldn't affect the safety.

Esch said there is a finite amount of gravel that is needed everyday and it has to come from some gravel pit somewhere. He said one of their conditions is getting the highway

accessed by the Montana Department of Transportation.

Hash said he is looking at the Beasley project, and is asking him whether or not he thinks the highway would be safe.

Esch said it would possibly make it more hazardous, but not more hazardous than the one they already permitted.

Hash asked if they needed to wait until the state makes the highway into four lanes, and if he thought he deserved it because other people have been permitted.

Esch said partially yes because other gravel pits have it so they should get it. He said that there are going to be gravel trucks on the road every day and it shouldn't matter what gravel pit they are coming from.

Hash and Esch discussed the water rights on the property.

Hash asked Sullivan if he agreed that gravel pits have nothing to do with the problems in the water.

Hash, Esch, Sullivan, and Spratt discussed, at length, water rights and the effects of gravel on the water.

Hash asked about the West Valley Land Use Committee decision.

Esch said they obviously disagree with their decision and they want it to be approved with conditions. He told the Board that if they put the appropriate conditions on the gravel pit all the problems could be mitigated.

Hash asked Smith if he would change his recommendation about the gravel pit now that he had heard new information.

Smith said no, his recommendation is the same.

Sagami said the two things that always bother him about gravel pits are the safety and water issues. He said after hearing Spratt talk, the water is no longer an issue and it is just now down to safety. He thinks the safety can be mitigated. He said the length of Beasley's time in the valley shouldn't have anything to do with the Board's decision.

Klempel said her biggest concern was dust, and the fact that

the roads do not have the infrastructure for the increased traffic. She discussed property value losses and the old home depot gravel pit.

Hash said both sides are very passionate about the issue and the Board normally tries to make both sides happy; it's not possible in this case. He said the big issue for him is safety and the issues are difficult for everybody. He said if some things changed in West Valley, the gravel pit might be acceptable.

Sagami said the complaint of the "beep-beep-beep" noise is ironic because it's required by OSHA.

Hash said if the gravel pit is denied, Beasley is going to build residential houses.

Loranger said she talked to a specialist who said gravel pits don't necessarily ruin ground water however, they don't help either. She said it's about ruining the ground water and there is no enforcement for people breaking the rules.

She discussed dust and how the County has already been fined; the County needs to come up with a way to enforce things.

The Board discussed, at length, traffic, safety, and the different options they have.

#### **MOTION**

Hash made a motion seconded by Loranger to adopt Staff Report FCU 06-18 as findings of fact and **deny** a Conditional Use Permit.

#### **ROLL CALL**

On a roll call vote the motion passed 4-1 with Sagami dissenting.

#### **CONDITIONAL USE PERMIT TUTVEDT FCU 06-17**

A request by the Paul and Sharon Tutvedt Family Ltd Partnership, for a Conditional Use Permit to operate an ~~industrial~~ gravel extraction and processing plant (crushing and screening) on 153 acres. The applicant proposes to mine 145 acres, leaving 3 acres undisturbed and 5 acres for facilities. The property is located off West Valley Drive and can legally be described as Tracts 1, 2, and 5AQ in Section 9 and Tracts 1 and 2 in Section 10, all in Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

#### **STAFF REPORT**

*Hash and Klempel stepped down for this application.*

Kirsten Holland of the Flathead County Planning & Zoning Office reviewed Staff Report FCU 06-17 for the Board.

**BOARD  
QUESTIONS**

Sagami asked about the access road and how many feet it is.

Kirsten stated it is 3,200 feet. She said at the West Valley Land Use Advisory Committee (*WVLUAC*) the report was made available to them and it was a 4-1 vote in favor of the gravel pit.

Loranger asked Staff what length of the road they want paved.

Holland said they would have to pave it 24 feet.

**APPLICANT**

Linda Connors, attorney with Hammer, Hewitt, Jacobs and Floch, represented the applicants. She stated the applicant's intentions. She spoke about the site and how many acres would be active at any given time. She stated this particular site is optimal for a gravel pit and would not be as intrusive as other gravel pits. She spoke about the conditions Staff placed on the permit and addressed the applicants proposed changes. She also spoke about the DEQ process and stated that the CUP would expire before they had the DEQ permit so they would ask that the permit would not be revoked due to that fact. She introduced Jeff Claridge, David Tutvedt, and Roger Noble and stated which conditions each would be talking about.

David Tutvedt, applicant, gave some history about the site and addressed condition #9 regarding livestock. He felt the active pit area could be fenced off. He also addressed conditions #14 and #15 regarding landscape buffering and said they would like the option of allowing the homeowners to decide if they would like a buffer or keep their view. He discussed the impact of area buffers and commented about the noise. He spoke about reclaiming the pit and the problems that the 300-foot buffer would cause.

Roger Noble, Applied Water Consulting, spoke about the groundwater in the area. He discussed the lost creek fan and his theory of how it originated. He also spoke about the wells and their depths. He showed a chart of the two aquifers in the area and discussed the depths of each. He also showed a groundwater flow map of the area and showed how the groundwater would flow and would not impact the residential area to the south and west. He summarized by stating there are several reasons this is a good place for this pit. There is no source of contaminants and they would have to have a storm water retention plan. He spoke about the nitrate concentration levels in the area and stated there is no

conclusion as to what the source would be. He stated gravel pits are not the source; they don't have anything to do with nitrates.

Sagami asked if the applicants were ok with condition #7.

Connors stated they would prefer it to have a 2996 floor which is definable.

Jeff Claridge, of LHC, spoke about their application and how they are phasing out the other gravel pit. He said they have preliminary approval from DEQ and spoke about their plan of operation. He showed the Board, on the map, where they would be mining. He spoke about the noise impacts and how they would start in an area that is lower to help mitigate that impact. He also spoke about the hours of operation and asked if they could run Saturday from 7am-2pm. He said the noise would be mitigated by strobe lights in the early morning hours as opposed to back-up beepers. He discussed the amount of disturbed area, whether it should be 20 acres or whatever Staff proposed, but they would like 40 acres. He stated it would only be 20 acres of open-pit at a time with 10 acres for stockpiling. They would be running water trucks from the Stillwater pit to help mitigate dust.

Connors briefly summed up the request. She spoke about the traffic and how this site is optimal because the problems could be mitigated by different measures. She also spoke about how much space is realistic for an operation and how it's proper to request the right amount of space.



**PUBLIC  
COMMENT**

Deanne Sampson, 220 Lost Creek, spoke in favor of the gravel pit. She said the Tutvedt's have been great neighbors in the 10 years she has lived there. She stated she had nothing to gain by speaking in favor and is concerned with water quality. She stated she could depend on them to be good neighbors and feels that LHC trucks are properly maintained. She would like to have a buffer in front of her property.

Tim Birk, 2239 Lower Valley Road, is in favor of this project. He feels the real assurance is the integrity and the reputation of both the Tutvedts.

Hank Galpin, 1885 Stillwater Rd, is not worried about the intensity. He knows LHC will operate the gravel pit properly. He wanted to address the farming issue and spoke about the different options to make it possible to live. In his opinion, if the Board were to approve the application they will save the farm.

Rick Kimball, 985 Stillwater Road, spoke in favor of the application. He stated LHC have been good neighbors and spoke about the traffic. He feels they have a handle on their drivers and they are very courteous.

Gary Krueger, 805 Church Drive, spoke about traffic on Church Drive, which would be their driving route. He is currently working with Schellinger to upgrade the road to help make the corners a little better for trucks. He feels this is a good site and they have a good haul route. He does all he can to maintain the haul route and believes this is a good area for a gravel pit.

Roger Sullivan represented Flathead Citizens for Quality Growth. He submitted documents in opposition of this proposal and proceeded to go through each section stating why, in their opinion, the application should be denied. (*See Report On Issues Regarding Application For Conditional Use FCU 06-17 Tutvedt.*)

Kip Willis, Lost Creek, commented about House Bill 591 and about the area being residential. He also talked about the conditions and how they are difficult to enforce. He spoke about neighborhood meetings and neighborhood plans and how the gravel pits are ruining the neighborhood. He discussed his opposition to the gravel pit because of it being a residential area. He said there has to be a traffic impact report before they can even consider approving the permit. He

wants to know what proof they have shown that all these impacts will be mitigated.

Clara LaChapelle stated she was thoroughly opposed to the application. She has lived out there for over 17 years and spoke about the roads and the traffic. She said the roads are not “S-curves”; they are 90 degree turns. She said there are three ways in and out of West Valley and one of them is road to Whitefish. She spoke about nitrate levels in the water and how dangerous they are becoming. She discussed Farm-to-Market Road and Church Drive and how much traffic is on them.

Steve Vandehey, 644 Bald Rock Road, handed a packet to the Board. He spoke about the road conditions and stated the Board is making lifelong decisions without having all the facts. He commented about the noise and the dust and about the Board’s legal rights. He discussed the West Valley Neighborhood Plan and asked if the Board understands it. He said he is not personally against gravel pits or growth, but it needs to be done the right way.

Mark Schwagger referred the Board to the West Valley Neighborhood Plan. He said the authors had a vision and had the foresight to require a traffic impact report.

Irene LoPresti stated she had only been here 2 years, and her observation is there are churches on every corner however, the name Tutvedt seems to be the Board’s God.

Irene Vandehey, commented about the 10-foot buffer to the aquifer and stated there is no way to control that. She wanted the Board to consider that and wondered if they’re willing to take the chance of ruining the water. She commented on the LHC truck drivers and the traffic.

Phil LoPresti, 413 Lost Creek Drive, stated this is a large residential area and pointed out different things on the map. He commented about the noise and the dust and how it will affect everybody in the neighborhood.

**STAFF  
REBUTTAL**

Holland clarified her reference to the West Valley Land Use Advisory Committee. She said they changed condition 10, 16, and 18. She stated that procedurally, the Neighborhood Plans are not regulatory documents and Staff reviews projects based on the Zoning Regulations.

**APPLICANT  
REBUTTAL**

Connors showed a map that had more details about the development around the site. She spoke about how the site is well buffered and discussed active operations. She discussed State law, which states although this is a residential zone the Board of Adjustment could issue or deny the permit. She spoke about the haul route and Staff's recommendation regarding the paving of Stillwater to help with dust abatement. She discussed the Stillwater processing plant and public safety. She commented about the nitrate levels and the potential causes for such high levels. She talked about the Neighborhood Plan and the application being a conditional use. She said the word "industrial" had been removed from the application, and she gave a definition of industrial. She said that the site is excellent. She reiterated some points they felt strongly about and also said they don't want to be restricted on Saturdays.

Claridge wanted to clarify some things about the pit on Stillwater Road and doesn't believe any of the trucks have ever been involved in an accident with another car.

Tutvedt stated the picture was sawdust not manure. He said his property is active in farming. They do extensive soil testing and are not moving nitrates.

Sagami asked his relationship to Emily Tutvedt.

Tutvedt said she was his niece. He stated he is concerned with safety.

**BOARD  
DISCUSSION**

Loranger asked Holland if a traffic study was required.

Holland stated it is not required and we don't have the regulations to impose that.

Harris gave the Board Staff's recommendations regarding the applicants proposed conditions. He started with #3 and said he does not agree with them because you have to meet all the conditions in one year; if they show they are working in good faith we can give them an extension. He said regarding condition #6, Staff thinks 7 a.m. is too early, but possibly

8am-2pm without crushing or screening would be ok.

Sagami asked what other gravel pits do on Saturdays.

Holland said Krueger can operate from 7am-7pm Saturday, but can not haul after noon.

Holland Staff is learning and it really depends on the site.

Harris discussed condition #7 and said there is no problem with the 2,996 feet depth. He said there is no problem with condition #9. He said there is an issue with condition #10 and the dust abatement; it is important to take care of the dust. He said conditions give them something to monitor and that is important for dust.

Sagami asked if the DEQ had any regulations on dust.

Holland said it's something like 6 percent.

Sagami said it's hard to define dust.

Harris said there is a problem when the dust leaves one property and goes to another.

Holland said that's why the West Valley Land Use Advisory Committee added that verbiage to the condition.

Harris said there are no problems with condition #11. He discussed condition #14 regarding the buffer and wanted to make it more restrictive. He said the buffer area could be used for stockpiling and could be burned. He said condition #15 is ok with applicant's suggestion of "shall". Harris said condition #16 was modified by the West Valley and Staff supports their wording. Harris said condition #18 should stay the same except adding that construction needs to be completed prior to commencement of operation.

Holland said in condition #24 they are asking for 40 acres rather than 20 and if it results in a better product Staff thinks 40 acres would work as long as no more than 20 acres is active at one time. She stated condition #25 and #27 are ok with Staff.

Hollinger asked about the buffer being in conflict with the pivot.

Tutvedt stated it can be a problem and they would like the landowner to modify.

There was discussion regarding the footprint of the buffer and whether or not it would conflict with the pivot and be acceptable to the neighboring properties.

Sagami asked about the dust abatement and how it could be monitored.

Staff clarified.

Sagami commented about having strobes and watchmen as opposed to back-up sirens.

Holland stated maybe they could impose that condition on Saturdays.

Claridge made a comment regarding the generators, strobe lights, and back-up sirens.

There was discussion regarding minimizing backing up.

**MOTION**

Sagami made a motion seconded by Loranger to adopt Staff Report FCU 06-17 as findings of fact as amended and issue a Conditional Use Permit as modified.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**OLD  
BUSINESS**

None.

**NEW  
BUSINESS/  
PUBLIC  
COMMENT**

None.

**ADJOURNMENT**

The meeting was adjourned at approximately 2:10 a.m. on a motion by Loranger seconded by Klempel. The next meeting will be held at 6:00 p.m. on March 6, 2007.

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Scott Hollinger, Chairman

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Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 3/6/07